

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

FLAMINGO LLC,

Plaintiff

v.

WENDY'S OLD FASHIONED  
HAMBURGERS OF NEW YORK, INC.,

Defendant.

Case No. 11-cv-4862 (CM) (JCF)

**DEFENDANT WENDY'S OLD FASHIONED HAMBURGERS OF NEW YORK, INC.'S  
COUNTER-STATEMENT TO PLAINTIFF FLAMINGO LLC'S AMENDED  
STATEMENT OF UNDISPUTED FACTS PURSUANT TO LOCAL RULE 56.1 IN  
SUPPORT OF ITS CROSS MOTION FOR SUMMARY JUDGMENT**

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Pursuant to Rule 56.1 of the Local Civil Rules of the United States District Court for the Southern District of New York, Defendant Wendy's Old Fashioned Hamburgers of New York, Inc. ("Wendy's") states that it does not controvert any of the facts (#1-132) set forth in Plaintiff Flamingo LLC's Amended Statement of Undisputed Facts Pursuant to Local Rule 56.1 In Support of Its Cross Motion for Summary Judgment ("Plaintiff's Amended Rule 56.1 Statement.") Defendant Wendy's notes for the Court's consideration that the facts (#1-132) set forth in Plaintiff's Amended Rule 56.1 Statement are identical to the Stipulated Facts listed in the parties' Joint Pre-Trial Order (Docket #26), filed with the Court on April 30, 2012.

DATED: New York, New York  
June 26, 2012

/s/ Douglass B. Maynard

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